



2005 - 2006 LEGISLATURE

LRBs0491/P2
MGD&CMH:DK/jf

TODAY

P3
1
Chg to
LXK(PLS)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT ,
TO 2005 SENATE BILL 318

LPS: inserts
to inserts

repeal cut

1 AN ACT *to repeal* 980.02 (2) (ag), 980.03 (5), 980.05 (1m), 980.09 (1) (title), 980.09
2 (2) and 980.10; *to renumber* 978.13 (2) and 980.01 (1); *to renumber and*
3 *amend* 938.396 (2) (e), 978.043, 980.015 (1), 980.015 (4), 980.03 (4), 980.04 (2),
4 980.07 (1), 980.09 (1) (a), 980.09 (1) (b) and 980.09 (1) (c); *to amend* 20.435 (2)
5 (bj), 46.10 (2), 48.396 (1), 48.396 (5) (a) (intro.), 51.30 (3) (a), 51.30 (3) (b), 51.30
6 (4) (b) 8m., 51.30 (4) (b) 10m., 51.30 (4) (b) 11., 51.375 (1) (a), 51.375 (2) (b), 51.42
7 (3) (aw) 1. d., 109.09 (1), 146.82 (2) (c), 301.03 (19), 301.45 (1g) (dt), 301.45 (3)
8 (a) 3r., 301.45 (3) (b) 3., 301.45 (5) (b) 2., 756.06 (2) (b), 801.52, 808.04 (3), 808.04
9 (4), 808.075 (4) (h), 809.10 (1) (d), 809.30 (1) (c), 809.30 (1) (f), 905.04 (4) (a),
10 911.01 (4) (c), 938.396 (1), 938.396 (5) (a) (intro.), 938.78 (2) (e), 946.42 (1) (a),
11 950.04 (1v) (xm), 967.03, 972.15 (4), 978.03 (3), 978.04, 978.045 (1r) (intro.),
12 978.05 (6) (a), 978.05 (8) (b), 980.01 (5), 980.01 (6) (a), 980.01 (6) (b), 980.01 (6)

(c), 980.01 (7), 980.015 (2) (intro.), 980.015 (2) (a), 980.015 (2) (b), 980.015 (2) (c), 980.02 (1) (a), 980.02 (4) (intro.), 980.03 (2) (intro.), 980.03 (3), 980.04 (1), 980.04 (3), 980.04 (5), 980.05 (1), 980.05 (2), 980.05 (3) (a), 980.05 (3) (b), 980.07 (2), 980.07 (3), 980.09 (title), 980.101 (2) (a), 980.11 (2) (intro.) and 980.12 (1); **to repeal and recreate** 980.08; and **to create** 48.396 (6), 48.78 (2) (e), 48.981 (7) (a) 8s., 51.30 (3) (bm), 51.30 (4) (b) 8s., 118.125 (2) (ck), 146.82 (2) (cm), 814.61 (1) (c) 6., 938.35 (1) (e), 940.20 (1g), 946.42 (3m), 972.15 (6), 973.155 (1) (c), 978.043 (2), 978.13 (2) (a), 980.01 (1b), 980.01 (1j), 980.01 (3), 980.01 (6) (am), 980.01 (6) (bm), 980.015 (2) (d), 980.02 (1) (b) 3., 980.02 (1m), 980.02 (6), 980.031 (title), 980.031 (1) and (2), 980.034, 980.036, 980.038, 980.04 (2) (b) 2., 980.05 (2m), 980.07 (1) (b), 980.07 (1g), 980.07 (1m), 980.07 (5) to (7), 980.09 (2g), 980.093, 980.095, 980.14 (title) and 980.14 (1) of the statutes; **relating to:** the definition of sexually violent person, sexually violent person commitment proceedings, criteria for supervised release, battery by certain committed persons, escape from custody by a person who is subject to a sexually violent person commitment proceeding, and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (2) (bj) of the statutes is amended to read:

20.435 (2) (bj) *Competency examinations and conditional and supervised release services.* Biennially, the amounts in the schedule for outpatient competency examinations and for payment by the department of costs for treatment and services for persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. 971.17 (3) (d) or (4) (e) or ~~980.08 (5) 980.07 (7)~~, for which the department has

plan (4)(g)

1 contracted with county departments under s. 51.42 (3) (aw) 1. d., with other public
2 agencies, or with private agencies to provide the treatment and services.

3 **SECTION 2.** 46.10 (2) of the statutes is amended to read:

4 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
5 including but not limited to a person admitted, committed or placed under s. 975.01,
6 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
7 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
8 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
9 supplies provided by any institution in this state including University of Wisconsin
10 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
11 care, maintenance, services and supplies, any person receiving care and services
12 from a county department established under s. 51.42 or 51.437 or from a facility
13 established under s. 49.73, and any person receiving treatment and services from a
14 public or private agency under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats.,
15 or s. 971.17 (3) (d) or (4) (e) or ~~980.08 (5)~~ ^{plain} ~~980.07 (7)~~ ⁴⁹ ~~(4)(g)~~ and the person's property and
16 estate, including the homestead, and the spouse of the person, and the spouse's
17 property and estate, including the homestead, and, in the case of a minor child, the
18 parents of the person, and their property and estates, including their homestead,
19 and, in the case of a foreign child described in s. 48.839 (1) who became dependent
20 on public funds for his or her primary support before an order granting his or her
21 adoption, the resident of this state appointed guardian of the child by a foreign court
22 who brought the child into this state for the purpose of adoption, and his or her
23 property and estate, including his or her homestead, shall be liable for the cost of the
24 care, maintenance, services and supplies in accordance with the fee schedule
25 established by the department under s. 46.03 (18). If a spouse, widow or minor, or

1 an incapacitated person may be lawfully dependent upon the property for their
2 support, the court shall release all or such part of the property and estate from the
3 charges that may be necessary to provide for those persons. The department shall
4 make every reasonable effort to notify the liable persons as soon as possible after the
5 beginning of the maintenance, but the notice or the receipt thereof is not a condition
6 of liability.

7 **SECTION 3.** 48.396 (1) of the statutes is amended to read:

8 48.396 (1) Law enforcement officers' records of children shall be kept separate
9 from records of adults. Law enforcement officers' records of the adult expectant
10 mothers of unborn children shall be kept separate from records of other adults. Law
11 enforcement officers' records of children and the adult expectant mothers of unborn
12 children shall not be open to inspection or their contents disclosed except under sub.
13 (1b), (1d) ~~or~~ (5), or (6) or s. 48.293 or by order of the court. This subsection does not
14 apply to the representatives of newspapers or other reporters of news who wish to
15 obtain information for the purpose of reporting news without revealing the identity
16 of the child or expectant mother involved, to the confidential exchange of information
17 between the police and officials of the school attended by the child or other law
18 enforcement or social welfare agencies or to children 10 years of age or older who are
19 subject to the jurisdiction of the court of criminal jurisdiction. A public school official
20 who obtains information under this subsection shall keep the information
21 confidential as required under s. 118.125 and a private school official who obtains
22 information under this subsection shall keep the information confidential in the
23 same manner as is required of a public school official under s. 118.125. A law
24 enforcement agency that obtains information under this subsection shall keep the
25 information confidential as required under this subsection and s. 938.396 (1). A

1 social welfare agency that obtains information under this subsection shall keep the
2 information confidential as required under ss. 48.78 and 938.78.

3 **SECTION 4.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

4 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
5 (1), (1b) ~~or~~, (1d), or (6) may petition the court to order the disclosure of the records
6 governed by the applicable subsection. The petition shall be in writing and shall
7 describe as specifically as possible all of the following:

8 **SECTION 5.** 48.396 (6) of the statutes is created to read:

9 48.396 (6) Records of law enforcement officers and of the court assigned to
10 exercise jurisdiction under this chapter and ch. 938 shall be open for inspection to
11 authorized representatives of the department of corrections, the department of
12 health and family services, the department of justice, or a district attorney for use
13 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if
14 the records involve or relate to an individual who is the subject of the proceeding or
15 evaluation. The court in which the proceeding under ch. 980 is pending may issue
16 any protective orders that it determines are appropriate concerning information
17 made available or disclosed under this subsection. Any representative of the
18 department of corrections, the department of health and family services, the
19 department of justice, or a district attorney may disclose information obtained under
20 this subsection for any purpose consistent with any proceeding under ch. 980.

21 **SECTION 6.** 48.78 (2) (e) of the statutes is created to read:

22 48.78 (2) (e) Notwithstanding par. (a), an agency shall, upon request, disclose
23 information to authorized representatives of the department of corrections, the
24 department of health and family services, the department of justice, or a district
25 attorney for use in the prosecution of any proceeding or any evaluation conducted

1 under ch. 980, if the information involves or relates to an individual who is the
2 subject of the proceeding or evaluation. The court in which the proceeding under ch.
3 980 is pending may issue any protective orders that it determines are appropriate
4 concerning information made available or disclosed under this paragraph. Any
5 representative of the department of corrections, the department of health and family
6 services, the department of justice, or a district attorney may disclose information
7 obtained under this paragraph for any purpose consistent with any proceeding under
8 ch. 980.

9 **SECTION 7.** 48.981 (7) (a) 8s. of the statutes is created to read:

10 48.981 (7) (a) 8s. Authorized representatives of the department of corrections,
11 the department of health and family services, the department of justice, or a district
12 attorney for use in the prosecution of any proceeding or any evaluation conducted
13 under ch. 980, if the reports or records involve or relate to an individual who is the
14 subject of the proceeding or evaluation. The court in which the proceeding under ch.
15 980 is pending may issue any protective orders that it determines are appropriate
16 concerning information made available or disclosed under this subdivision. Any
17 representative of the department of corrections, the department of health and family
18 services, the department of justice, or a district attorney may disclose information
19 obtained under this subdivision for any purpose consistent with any proceeding
20 under ch. 980.

21 **SECTION 8.** 51.30 (3) (a) of the statutes is amended to read:

22 51.30 (3) (a) Except as provided in pars. (b) ~~and (bm)~~, (c), ~~and (d)~~, the files and
23 records of the court proceedings under this chapter shall be closed but shall be
24 accessible to any individual who is the subject of a petition filed under this chapter.

25 **SECTION 9.** 51.30 (3) (b) of the statutes is amended to read:

1 51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation
2 counsel shall have access to the files and records of the court proceedings under this
3 chapter without the individual's consent and without modification of the records in
4 order to prepare for involuntary commitment or recommitment proceedings,
5 reexaminations, appeals, or other actions relating to detention, admission, or
6 commitment under this chapter or ch. 971 or 975, or 980.

7 **SECTION 10.** 51.30 (3) (bm) of the statutes is created to read:

8 51.30 (3) (bm) Authorized representatives of the department of corrections, the
9 department of health and family services, the department of justice, or a district
10 attorney shall have access to the files and records of court proceedings under this
11 chapter for use in the prosecution of any proceeding or any evaluation conducted
12 under ch. 980, if the files or records involve or relate to an individual who is the
13 subject of the proceeding or evaluation. The court in which the proceeding under ch.
14 980 is pending may issue any protective orders that it determines are appropriate
15 concerning information made available or disclosed under this paragraph. Any
16 representative of the department of corrections, the department of health and family
17 services, the department of justice, or a district attorney may disclose information
18 obtained under this paragraph for any purpose consistent with any proceeding under
19 ch. 980.

20 **SECTION 11.** 51.30 (4) (b) 8m. of the statutes is amended to read:

21 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.
22 971.17 (2) (e), (4) (c), and (7) (c), ~~980.03 (4) or 980.08 (3)~~. The recipient of any
23 information from the records shall keep the information confidential except as
24 necessary to comply with s. 971.17 or ch. 980.

25 **SECTION 12.** 51.30 (4) (b) 8s. of the statutes is created to read:

1 51.30 (4) (b) 8s. To appropriate persons in accordance with s. 980.031 (4) and
2 to authorized representatives of the department of corrections, the department of
3 health and family services, the department of justice, or a district attorney for use
4 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if
5 the treatment records involve or relate to an individual who is the subject of the
6 proceeding or evaluation. The court in which the proceeding under ch. 980 is pending
7 may issue any protective orders that it determines are appropriate concerning
8 information made available or disclosed under this subdivision. Any representative
9 of the department of corrections, the department of health and family services, the
10 department of justice, or a district attorney may disclose information obtained under
11 this subdivision for any purpose consistent with any proceeding under ch. 980.

12 **SECTION 13.** 51.30 (4) (b) 10m. of the statutes is amended to read:

13 51.30 (4) (b) 10m. To the department of justice or a district attorney under s.
14 980.015 (3) (b), if the treatment records are maintained by an agency with
15 jurisdiction, as defined in s. ~~980.015 (1) 980.01 (1)(a)~~ ^{(1)(a)}, that has control or custody over
16 a person who may meet the criteria for commitment as a sexually violent person
17 under ch. 980.

18 **SECTION 14.** 51.30 (4) (b) 11. of the statutes is amended to read:

19 51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and
20 the corporation counsel, without modification, at any time in order to prepare for
21 involuntary commitment or recommitment proceedings, reexaminations, appeals, or
22 other actions relating to detention, admission, commitment, or patients' rights under
23 this chapter or ch. 48, 971, ~~or 975~~, or 980.

24 **SECTION 15.** 51.375 (1) (a) of the statutes is amended to read:

1 51.375 (1) (a) “Community placement” means conditional transfer into the
2 community under s. 51.35 (1), conditional release under s. 971.17, parole from a
3 commitment for specialized treatment under ch. 975, or ~~conditional~~ supervised
4 release under ch. 980.

5 **SECTION 16.** 51.375 (2) (b) of the statutes is amended to read:

6 51.375 (2) (b) The department may administer a lie detector test to a sex
7 offender as part of the sex offender’s programming, care, or treatment. A patient may
8 refuse to submit to a lie detector test under this paragraph. This refusal does not
9 constitute a general refusal to participate in treatment. The results of a lie detector
10 test under this paragraph may be used only in the care, treatment, or assessment of
11 the subject or in programming for the subject. The results of a test may be disclosed
12 only to persons employed at the facility at which the subject is placed who need to
13 know the results for purposes related to care, treatment, or assessment of the
14 patient, the committing court, the patient’s attorney, or the attorney representing
15 the state in a proceeding under ch. 980. The committing court to which the results
16 of a test have been disclosed may admit the results in evidence in a proceeding under
17 ch. 980.

18 **SECTION 17.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

19 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a
20 conditional release plan approved by a court for a person who is a county resident and
21 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised
22 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003
23 stats., or s. ~~980.08 (5)~~ ~~980.07 (7)~~. If the county department provides treatment and
24 services under this subdivision, the department of health and family services shall,

1 from the appropriation under s. 20.435 (2) (bj), pay the county department for the
2 costs of the treatment and services.

1W
10-3
3 **SECTION 18.** 109.09 (1) of the statutes is amended to read:

4 109.09 (1) The department shall investigate and attempt equitably to adjust
5 controversies between employers and employees as to alleged wage claims. The
6 department may receive and investigate any wage claim which is filed with the
7 department, or received by the department under s. 109.10 (4), no later than 2 years
8 after the date the wages are due. The department may, after receiving a wage claim,
9 investigate any wages due from the employer against whom the claim is filed to any
10 employee during the period commencing 2 years before the date the claim is filed.
11 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.49, 103.82,
12 104.12 and 229.8275. In pursuance of this duty, the department may sue the
13 employer on behalf of the employee to collect any wage claim or wage deficiency and
14 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
15 under s. 109.10, the department may refer such an action to the district attorney of
16 the county in which the violation occurs for prosecution and collection and the
17 district attorney shall commence an action in the circuit court having appropriate
18 jurisdiction. Any number of wage claims or wage deficiencies against the same
19 employer may be joined in a single proceeding, but the court may order separate
20 trials or hearings. In actions that are referred to a district attorney under this
21 subsection, any taxable costs recovered by the district attorney shall be paid into the
22 general fund of the county in which the violation occurs and used by that county to
23 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
24 of the district attorney who prosecuted the action.

25 **SECTION 19.** 118.125 (2) (ck) of the statutes is created to read:

1 118.125 (2) (ck) The school district clerk or his or her designee shall make pupil
2 records available for inspection or, upon request, disclose the contents of pupil
3 records to authorized representatives of the department of corrections, the
4 department of health and family services, the department of justice, or a district
5 attorney for use in the prosecution of any proceeding or any evaluation conducted
6 under ch. 980, if the pupil records involve or relate to an individual who is the subject
7 of the proceeding or evaluation. The court in which the proceeding under ch. 980 is
8 pending may issue any protective orders that it determines are appropriate
9 concerning pupil records made available or disclosed under this paragraph. Any
10 representative of the department of corrections, the department of health and family
11 services, the department of justice, or a district attorney may disclose information
12 obtained under this paragraph for any purpose consistent with any proceeding under
13 ch. 980.

14 **SECTION 20.** 146.82 (2) (c) of the statutes is amended to read:

15 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be
16 released to appropriate examiners and facilities in accordance with ~~ss. s.~~ 971.17 (2)
17 (e), (4) (c), and (7) (c), ~~980.03 (4) and 980.08 (3)~~. The recipient of any information from
18 the records shall keep the information confidential except as necessary to comply
19 with s. 971.17 ~~or ch. 980~~.

20 **SECTION 21.** 146.82 (2) (cm) of the statutes is created to read:

21 146.82 (2) (cm) Notwithstanding sub. (1), patient health care records shall be
22 released, upon request, to appropriate persons in accordance with s. 980.031 (4) and
23 to authorized representatives of the department of corrections, the department of
24 health and family services, the department of justice, or a district attorney for use
25 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if

1 the treatment records involve or relate to an individual who is the subject of the
2 proceeding or evaluation. The court in which the proceeding under ch. 980 is pending
3 may issue any protective orders that it determines are appropriate concerning
4 records made available or disclosed under this paragraph. Any representative of the
5 department of corrections, the department of health and family services, the
6 department of justice, or a district attorney may disclose information obtained under
7 this paragraph for any purpose consistent with any proceeding under ch. 980.

8 **SECTION 22.** 301.03 (19) of the statutes is amended to read:

9 301.03 (19) Work to minimize, to the greatest extent possible, the residential
10 population density of sex offenders, as defined in s. 302.116 (1) (b), who are on
11 probation, parole, or extended supervision or placed on supervised release under s.
12 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. 980.08 (5) 980.07 (7). (4g) (4)(g)

13 **SECTION 23.** 301.45 (1g) (dt) of the statutes is amended to read:

14 301.45 (1g) (dt) Is in institutional care or on ~~conditional~~ supervised release
15 under ch. 980 on or after June 2, 1994.

16 **SECTION 24.** 301.45 (3) (a) 3r. of the statutes is amended to read:

17 301.45 (3) (a) 3r. If the person has been committed under ch. 980, he or she is
18 subject to this subsection upon being placed on supervised release under s. 980.06
19 (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,
20 before being discharged under s. 980.10, 2003 stats., or s. 980.09 (3) of 980.10 more
21 ~~980.093.~~ (4) strike

22 **SECTION 25.** 301.45 (3) (b) 3. of the statutes is amended to read:

23 301.45 (3) (b) 3. The department of health and family services shall notify a
24 person who is being placed on conditional release, supervised release, conditional
25 transfer or parole, or is being terminated or discharged from a commitment, under

1 s. 51.20, 51.35 or 971.17 or ch. 975 or 980 and who is covered under sub. (1g) of the
2 need to comply with the requirements of this section.

3 **SECTION 26.** 301.45 (5) (b) 2. of the statutes is amended to read:

4 301.45 (5) (b) 2. The person has been found to be a sexually violent person under
5 ch. 980, regardless of whether the person is has been discharged under s. 980.10,
6 2003 stats., or s. 980.09 (3) or 980.10 980.093 from the sexually violent person
7 commitment, except that the person no longer has to comply with this section if the
8 finding that the person is a sexually violent person has been reversed, set aside or
9 vacated.

10 **SECTION 27.** 756.06 (2) (b) of the statutes is amended to read:

11 756.06 (2) (b) Except as provided in par. (c) and ss. 980.05 (2) and (2m) (c),
12 980.09 (2m), 980.093 (3), and 980.095 (3), a jury in a civil case shall consist of 6
13 persons unless a party requests a greater number, not to exceed 12. The court, on its
14 own motion, may require a greater number, not to exceed 12.

15 **SECTION 28.** 801.52 of the statutes is amended to read:

16 **801.52 Discretionary change of venue.** The court may at any time, upon
17 its own motion, the motion of a party or the stipulation of the parties, change the
18 venue to any county in the interest of justice or for the convenience of the parties or
19 witnesses. This section does not apply to proceedings under ch. 980.

20 **SECTION 29.** 808.04 (3) of the statutes is amended to read:

21 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case
22 or a case under ch. 48, 51, 55 ~~or~~ 938, or 980 shall be initiated within the time period
23 specified in s. 809.30.

24 **SECTION 30.** 808.04 (4) of the statutes is amended to read:

PLEASE NOTE: Please review the cross-references to ensure they are what you intend.

1 808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a
2 criminal case under s. 974.05 or a case under ch. 48 or, 938, or 980 shall be initiated
3 within 45 days of entry of the judgment or order appealed from.

4 **SECTION 31.** 808.075 (4) (h) of the statutes is amended to read:

5 808.075 (4) (h) Commitment, supervised release, recommitment, discharge,
6 and postcommitment relief under s. 980.10, 2003 stats., or ss. 980.06, 980.08, 980.09,
7 980.10 (3) 980.093, and 980.101 of a person found to be a sexually violent person
8 under ch. 980. *keep*

9 **SECTION 32.** 809.10 (1) (d) of the statutes is amended to read:

10 809.10 (1) (d) *Docketing statement.* The person shall send the court of appeals
11 an original and one copy of a completed docketing statement on a form prescribed by
12 the court of appeals. The docketing statement shall accompany the court of appeals'
13 copy of the notice of appeal. The person shall send a copy of the completed docketing
14 statement to the other parties to the appeal. Docketing statements need not be filed
15 in appeals brought under s. 809.105, 809.107, 809.32, or 974.06 (7), in cases under
16 ch. 980, or in cases in which a party represents himself or herself. Docketing
17 statements need not be filed in appeals brought under s. 809.30 or 974.05, or by the
18 state or defendant in permissive appeals in criminal cases pursuant to s. 809.50,
19 except that docketing statements shall be filed in cases arising under chs. 48, 51, 55,
20 or 938.

21 **SECTION 33.** 809.30 (1) (c) of the statutes is amended to read:

22 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for
23 postconviction relief in a criminal case, other than an appeal, motion, or petition
24 under ss. 302.113 (7m), 302.113 (9g), 973.19, 973.195, 974.06, or 974.07 (2). In a ch.

1 980 case, the term means an appeal or a motion for postcommitment relief under s.
2 980.038 (4).

3 **SECTION 34.** 809.30 (1) (f) of the statutes is amended to read:

4 809.30 (1) (f) “Sentencing” means the imposition of a sentence, a fine, or
5 probation in a criminal case. In a ch. 980 case, the term means the entry of an order
6 under s. 980.06.

7 **SECTION 35.** 814.61 (1) (c) 6. of the statutes is created to read:

8 814.61 (1) (c) 6. An action to commit a person under ch. 51, 55, or 980.

9 **SECTION 36.** 905.04 (4) (a) of the statutes is amended to read:

10 905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective*
11 *services, or protective placement or for control, care, or treatment of a sexually violent*
12 *person.* There is no privilege under this rule as to communications and information
13 relevant to an issue in proceedings to hospitalize the patient for mental illness, to
14 appoint a guardian under s. 880.33, for court-ordered protective services or
15 protective placement ~~or~~, for review of guardianship, protective services, or protective
16 placement orders, or for control, care, or treatment of a sexually violent person under
17 ch. 980, if the physician, registered nurse, chiropractor, psychologist, social worker,
18 marriage and family therapist, or professional counselor in the course of diagnosis
19 or treatment has determined that the patient is in need of hospitalization,
20 guardianship, protective services, or protective placement or control, care, and
21 treatment as a sexually violent person.

22 **SECTION 37.** 911.01 (4) (c) of the statutes is amended to read:

23 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
24 rendition; sentencing, granting or revoking probation, modification of a bifurcated
25 sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195

Abt: Please review the cross-reference to ensure it is what you intend

1 (1r), issuance of arrest warrants, criminal summonses and search warrants;
2 hearings under s. 980.093 (2); proceedings under s. 971.14 (1) (c); proceedings with
3 respect to pretrial release under ch. 969 except where habeas corpus is utilized with
4 respect to release on bail or as otherwise provided in ch. 969.

5 **SECTION 38.** 938.35 (1) (e) of the statutes is created to read:

6 938.35 (1) (e) In a hearing, trial, or other proceeding under ch. 980.

7 **SECTION 39.** 938.396 (1) of the statutes is amended to read:

8 938.396 (1) Law enforcement officers' records of juveniles shall be kept
9 separate from records of adults. Law enforcement officers' records of juveniles shall
10 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
11 (1m), (1r), (1t), (1x) ~~or~~ (5), or (10) or s. 938.293 or by order of the court. This
12 subsection does not apply to representatives of the news media who wish to obtain
13 information for the purpose of reporting news without revealing the identity of the
14 juvenile involved, to the confidential exchange of information between the police and
15 officials of the school attended by the juvenile or other law enforcement or social
16 welfare agencies, or to juveniles 10 years of age or older who are subject to the
17 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
18 information under this subsection shall keep the information confidential as
19 required under s. 118.125 and a private school official who obtains information under
20 this subsection shall keep the information confidential in the same manner as is
21 required of a public school official under s. 118.125. A law enforcement agency that
22 obtains information under this subsection shall keep the information confidential as
23 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
24 information under this subsection shall keep the information confidential as
25 required under ss. 48.78 and 938.78.

1 **SECTION 40.** 938.396 (2) (e) of the statutes is renumbered 938.396 (10) and
2 amended to read:

3 938.396 (10) ~~Upon request of the department of corrections to review court A~~
4 law enforcement agency's records and records for the purpose of providing, under s.
5 980.015 (3) (a) of the court assigned to exercise jurisdiction under this chapter and
6 ch. 48 shall be open for inspection by authorized representatives of the department
7 of corrections, the department of health and family services, the department of
8 justice, or a district attorney with a person's offense history, the court shall open for
9 inspection by authorized representatives of the department of corrections the
10 records of the court relating to any juvenile who has been adjudicated delinquent for
11 a sexually violent offense, as defined in s. 980.01 (6) for use in the prosecution of any
12 proceeding or any evaluation conducted under ch. 980, if the records involve or relate
13 to an individual who is the subject of the proceeding or evaluation. The court in
14 which the proceeding under ch. 980 is pending may issue any protective orders that
15 it determines are appropriate concerning information made available or disclosed
16 under this subsection. Any representative of the department of corrections, the
17 department of health and family services, the department of justice, or a district
18 attorney may disclose information obtained under this subsection for any purpose
19 consistent with any proceeding under ch. 980.

20 **SECTION 41.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

21 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
22 (1), (1b), (1d), (1g), (1m), (1r) ~~or~~ (1t), or (10) may petition the court to order the
23 disclosure of the records governed by the applicable subsection. The petition shall
24 be in writing and shall describe as specifically as possible all of the following:

25 **SECTION 42.** 938.78 (2) (e) of the statutes is amended to read:

1 938.78 (2) (e) Paragraph (a) does not prohibit the department from disclosing
2 ~~Notwithstanding par. (a), an agency shall, upon request, disclose information about~~
3 ~~an individual adjudged delinquent under s. 938.183 or 938.34 for a sexually violent~~
4 ~~offense, as defined in s. 980.01 (6), to authorized representatives of the department~~
5 ~~of corrections, the department of health and family services, the department of~~
6 ~~justice, or a district attorney or a judge acting under ch. 980 or to an attorney who~~
7 ~~represents a person subject to a petition for use in the prosecution of any proceeding~~
8 ~~or any evaluation conducted under ch. 980, if the information involves or relates to~~
9 ~~an individual who is the subject of the proceeding or evaluation.~~ The court in which
10 the petition proceeding under s. 980.02 is filed ch. 980 is pending may issue any
11 protective orders that it determines are appropriate concerning information
12 disclosed under this paragraph. Any representative of the department of
13 corrections, the department of health and family services, the department of justice,
14 or a district attorney may disclose information obtained under this paragraph for any
15 purpose consistent with any proceeding under ch. 980.

16 **SECTION 43.** 940.20 (1g) of the statutes is created to read:

17 940.20 **(1g)** BATTERY BY CERTAIN COMMITTED PERSONS. Any person placed in a
18 facility under s. 980.065 and who intentionally causes bodily harm to an officer,
19 employee, agent, visitor, or other resident of the facility, without his or her consent,
20 is guilty of a Class H felony.

21 **SECTION 44.** 946.42 (1) (a) of the statutes is amended to read:

22 946.42 **(1)** (a) "Custody" includes without limitation actual custody of an
23 institution, including a secured correctional facility, as defined in s. 938.02 (15m), a
24 secured child caring institution, as defined in s. 938.02 (15g), a secured group home,
25 as defined in s. 938.02 (15p), a secure detention facility, as defined in s. 938.02 (16),

1 a Type 2 child caring institution, as defined in s. 938.02 (19r), a facility used for the
2 detention of persons detained under s. 980.04 (1), a facility specified in s. 980.065,
3 or a juvenile portion of a county jail, or actual custody of a peace officer or institution
4 guard. “Custody” also includes the constructive custody of persons placed on
5 supervised release under ch. 980 and constructive custody of prisoners and juveniles
6 subject to an order under s. 48.366, 938.183, 938.34 (4d), (4h) or (4m) or 938.357 (4)
7 or (5) (e) temporarily outside the institution whether for the purpose of work, school,
8 medical care, a leave granted under s. 303.068, a temporary leave or furlough
9 granted to a juvenile or otherwise. Under s. 303.08 (6) it means, without limitation,
10 that of the sheriff of the county to which the prisoner was transferred after
11 conviction. It does not include the custody of a probationer, parolee or person on
12 extended supervision by the department of corrections or a probation, extended
13 supervision or parole officer or the custody of a person who has been released to
14 aftercare supervision under ch. 938 unless the person is in actual custody or is
15 subject to a confinement order under s. 973.09 (4).

16 **SECTION 45.** 946.42 (3m) of the statutes is created to read:

17 946.42 (3m) A person who intentionally escapes from custody under any of the
18 following circumstances is guilty of a Class F felony:

19 (a) While subject to a detention order under s. 980.04 (1) or a custody order
20 under s. 980.04 (3).

21 (b) While subject to an order issued under s. 980.06 committing the person to
22 custody of the department of health and family services, regardless of whether the
23 person is placed in institutional care or on supervised release.

24 **SECTION 46.** 950.04 (1v) (xm) of the statutes is amended to read:

1 950.04 (1v) (xm) To have the department of health and family services make
2 a reasonable attempt to notify the victim under s. 980.11 regarding supervised
3 release under s. 980.08 and discharge under s. 980.09 ~~(2) or 980.10 980.092~~. (4)

4 **SECTION 47.** 967.03 of the statutes is amended to read:

5 **967.03 District attorneys.** Wherever in chs. 967 to ~~979~~ 980 powers or duties
6 are imposed upon district attorneys, the same powers and duties may be discharged
7 by any of their duly qualified deputies or assistants.

8 **SECTION 48.** 972.15 (4) of the statutes is amended to read:

9 972.15 (4) After sentencing, unless otherwise authorized under sub. (5) or (6)
10 or ordered by the court, the presentence investigation report shall be confidential
11 and shall not be made available to any person except upon specific authorization of
12 the court.

13 **SECTION 49.** 972.15 (6) of the statutes is created to read:

14 972.15 (6) The presentence investigation report and any information contained
15 in it or upon which it is based may be used by any of the following persons in any
16 evaluation, examination, referral, hearing, trial, postcommitment relief proceeding,
17 appeal, or other proceeding under ch. 980:

18 (a) The department of corrections.

19 (b) The department of health and family services.

20 (c) The person who is the subject of the presentence investigation report, his
21 or her attorney, or an agent or employee of the attorney.

22 (d) The attorney representing the state or an agent or employee of the attorney.

23 (e) A licensed physician, licensed psychologist, or other mental health
24 professional who is examining the subject of the presentence investigation report.

25 (f) The court and, if applicable, the jury hearing the case.